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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,443	12/21/2001	L. John Teuscher	BAL-108 (17451)	4830

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EXAMINER

BOCHNA, DAVID

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/037,443

Applicant(s)

TEUSCHER ET AL.

Examiner

David E. Bochna

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 2/21/03 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the document "International Search Report" will not be printed on the patent application should it issue. The applicant must provide an IDS that lists all of the documents listed in the international search in order to have those documents listed on an issued patent. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer '203 in view of Webb et al.

In regard to claims 1, 9-10 and 18, Palmer '203 discloses a connector for a respiratory

Art Unit: 3679

assembly comprising a first section 44 being substantially cylindrical in shape, the first section having a first axis, the first section having a first passage there through to allow for transport of fluids and objects through the first section, the first section rotatably engageable with a first member of the respiratory assembly;

a second section 48' being substantially cylindrical in shape and being connected to the first section, the second section having a second axis, the second section having a second passage there through in communication with the first passage to allow for transport of fluids and objects through the second section, the second section rotatably engageable with a second member of the respiratory assembly. However, Palmer does not disclose that the angle between the first and second end is 120 degrees. Webb et al. teaches making respiratory assemblies at angles greater than 90 degrees, and approximately 120 degrees (see column 3, lines 5-7) in order to allow for greater mobility of the patient and the connected tube without causing discomfort to the patient. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the coupling angle of Palmer '203 to include one greater than 90 degrees, as taught by Webb et al., so that greater mobility will with less discomfort will be achieved for the patient.

In regard to claims 2, 8, 11 and 17, the first member is a tracheal tube and the second member is a ventilating tube (see column 4, line 44).

In regard to claims 3 and 12, the first and second end couplings include hollow female bell housings 56, 62'.

In regard to claims 4, 5 and 13-14, a first sleeve 98, and a second sleeve 98' are included, both engage first annular ribs 70, 63' causing deflection (see fig. 6).

Art Unit: 3679

In regard to claims 6 and 15, each end has a stepped annular ring 106 and retainers 104.

In regard to claims 7 and 16, the body is made of plastic are made by injection molding and are substantially transparent (see claim 15).

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Choksi, Maasberg, Oberrecht et al., Kreidel, Sr., et al., Corsette, Bard, Phillips, Meyer et al., McGahan, Warner, Jobes, UK Application '806, UK Application '512 all disclose similar connectors common in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read 'David Bochna', with a stylized flourish at the end.

**David Bochna**  
**March 17, 2003**